

**O'BRIEN, BELLAND & BUSHINSKY, LLC**

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*Attorneys for Plaintiffs*

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

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TRUSTEES OF THE IBEW LOCAL 351  
PENSION FUND; IBEW LOCAL 351  
SURETY FUND; IBEW LOCAL 351  
WELFARE FUND; IBEW LOCAL 351  
JOINT APPRENTICESHIP AND  
TRAINING COMMITTEE; SOUTH  
JERSEY ELECTRICAL WORKERS  
TEMPORARY DISABILITY FUND for  
and on behalf of themselves and said  
FUNDS; and IBEW LOCAL UNION NO.  
351,

Case No.

**COMPLAINT**

*Plaintiffs,*

v.

E & J ELECTRICAL CONTRACTOR,  
LLC,

*Defendants.*

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Plaintiffs, by and through undersigned counsel, state as follows:

**JURISDICTION AND VENUE**

1. The jurisdiction of this Court is invoked pursuant to Sections 502(e)(1) and (f) and 515 of the Employee Retirement Income Security Act of 1974

(“ERISA”), 29 U.S.C. §1132(e)(1) and (f) and §1145 respectively, and §301 of the Labor Management Relations Act (“LMRA”), and 29 U.S.C. §185; and 28 U.S.C. §1331.

2. This Court is one of proper venue pursuant to Section 502(e)(2) of ERISA, 29 U.S.C. §1132(e)(2), and Section 301 of the LMRA, 29 U.S.C. §185 because the Trust Funds are administered in the State of New Jersey, the breach took place in New Jersey, and Defendant maintained or maintains a principal place of business in the State of New Jersey.

3. A copy of this Complaint is being served on the Secretary of Labor and the Secretary of the Treasury of the United States by certified mail in accordance with 29 U.S.C. §1132(h).

### **PARTIES**

4. Plaintiff Trustees of the IBEW Local 351 Pension, Surety, Welfare, Joint Apprenticeship and Training Committee, and South Jersey Electrical Workers Temporary Disability Funds (“Funds”) are fiduciaries of the Funds within the meaning of Sections 3(21) and 502 of ERISA, 29 U.S.C. §1002(21) and §1132. The Plaintiff Funds are trust funds established and maintained pursuant to Section 302(c)(5) of the LMRA, 29 U.S.C. §186(c)(5), and are employee benefit plans established and maintained pursuant to Sections 3(1)(2) and (3) of ERISA, 29 U.S.C. §1002(1), (2) and (3), for the purpose of providing health benefits and other benefits

to eligible participants. The Funds are also multiemployer plans within the meaning of Sections 3(7) and 515 of ERISA, 29 U.S.C. 1002(37) and 1145 respectively.

5. The Funds are authorized to file a lawsuit in their own names pursuant to Section 301 of the LMRA, 29 U.S.C. §185.

6. The Funds maintain their principal place of business at 830 Bear Tavern Road, West Trenton, New Jersey 08628.

7. Plaintiffs bring this action on behalf of the Funds' participants and beneficiaries pursuant to Section 301 of the LMRA, 29 U.S.C. §185.

8. Daniel Cosner is the Business Manager of Plaintiff IBEW Local Union No. 351 ("Union") and brings this action for contribution penalties in his representative capacity.

9. The Plaintiff Union is an unincorporated labor organization within the meaning of Section 301 of the LMRA, 29 U.S.C. § 185, and Section 3(4) of ERISA, 29 U.S.C. § 1002(4), and represents employees in an industry affecting commerce.

10. The Union maintains its principal place of business at 1113 Black Horse Pike, Hammonton, New Jersey 08037.

11. Defendant, E & J Electrical Contractor, LLC is referred to as "Defendant" or "employer" or "party in interest", and was or is an employer in an industry affecting commerce within the meaning of Section 301 of LMRA, 29 U.S.C. §185.

12. Upon information and belief, Defendant E & J Electrical Contractor, LLC is a corporation that maintains or maintained its principal place of business at 24 Sand Road, Milltown, New Jersey 08850.

13. At all material times hereto, Defendant E & J Electrical Contractor, LLC has been engaged in the business of providing electrical construction and installation for commercial, industrial, municipal, and corporate facilities.

14. Defendant conducts, or has conducted, business in the State of New Jersey during all times relevant to this Complaint.

**COUNT ONE**

15. Plaintiffs incorporate the allegations in Paragraphs 1 through 14 of this Complaint as if set forth herein in their entirety.

16. At all times relevant hereto, Defendant E & J Electrical Contractor, LLC was party to or agreed to abide by the Inside Agreement in effect between Defendant and the Union requiring that certain fringe benefit contributions be made to Plaintiff Funds on behalf of eligible members who have worked for Defendant E & J Electrical Contractor, LLC.

17. By virtue of the Inside Agreement, Defendant E & J Electrical Contractor, LLC agreed to abide by the terms of an Agreement and Declaration of Trust which governs each of the Funds (collectively "Trust Agreement"), as well as the Collection Policy. The Trust Agreement sets forth the rules and regulations with

respect to participation in and administration of the Funds. In particular, the Trust Agreement, in accordance with federal law and administrative regulations, requires that fringe benefit contributions be made for eligible participants on a timely basis.

18. Defendant E & J Electrical Contractor, LLC paid delinquent contributions in the total amount of \$68,601.73 representing the payroll period of September 1, 2011 through March 31, 2012 but has failed to remit, timely remit and/or has only partially remitted, such contributions to the Funds for the benefit of its employees.

19. Defendant E & J Electrical Contractor, LLC has failed and refused to pay the delinquent penalties as required by the Inside Agreement, Trust Agreement, and Collection Policy for the period including, but not limited to, the payroll period of September 1, 2011 through March 31, 2012 totaling \$3,713.83.

20. Payment of the delinquent penalties assessed against Defendant E & J Electrical Contractor, LLC has been demanded by the Funds, but Defendant has refused to submit the required payments.

21. This action is brought pursuant to the terms of the Inside Agreement, Trust Agreement, and Collection Policy which requires this Court to award interest, liquidated damages, reasonable attorneys' fees, court costs, and any other fees or relief which the Court deems appropriate.

**WHEREFORE**, Plaintiffs respectfully demand judgment against Defendant

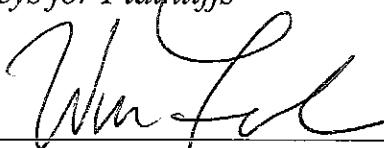
E & J Electrical Contractor, LLC and requests the following relief:

- A. Order Defendant E & J Electrical Contractor, LLC to pay all delinquent penalties owed to Plaintiffs;
- B. Order Defendant E & J Electrical Contractor, LLC to pay interest on the delinquent penalties at the rate as provided by the Inside Agreement and Trust Agreement;
- C. Order Defendant E & J Electrical Contractor, LLC to pay liquidated damages as provided by the Inside Agreement and Trust Agreement;
- D. Order Defendant E & J Electrical Contractor, LLC to specifically perform all obligations to the Plaintiff Funds under the Inside Agreement;
- E. Order Defendant E & J Electrical Contractor, LLC to pay the Funds' reasonable attorneys' fees and costs of suit incurred in the prosecution of this action as provided by the Inside Agreement and Trust Agreement; and
- F. Order such other and further relief as this Court may deem just and appropriate.

Respectfully submitted,

**O'BRIEN, BELLAND & BUSHINSKY, LLC**

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